IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:	) Group Art Unit: 3673
ALLIOT	) Examiner: Sunil Singh
Serial No.: 10/507,428	) Confirmation No. 6318
Filed: May 11, 2005	) REPLY TO EXAMINER'S ANSWER
Atty. File No.: 7096SO-28	) ***ELECTRONICALLY FILED***
For: "SEABED ANCHOR"	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir/Madam:

Appellant submits this Reply to the Examiner's Answer dated October 30, 2008. Although Appellant believes that no fees are due, the Commissioner is authorized to charge any fees that may be due for entry of this Reply to Deposit Account No. 19-1970.

REPLY

The Appellant provides the following further arguments to traverse the Examiner's rejections as explained in the Examiner's Answer:

With respect to the Examiner's determination that the Haynes 046 reference discloses an equivalent means for retaining seabed soil, Appellant asserts that the Examiner has too broadly construed the Haynes 046 reference. Appellant reiterates its position that the structure in Haynes 046 does not perform the identical function. The purpose of the pump 12 and one pair of check valves in the Haynes 046 device are to remove water and sediment through the top opening 62 in order that the device can be imbedded. During the upstroke cycle, soil and water are pulled through the lower cavity 42 and into the upper cavity 61. The Examiner asserts that when the pump stops suction, the soil will fall into the area illustrated by 61 due to gravity. Even if this statement is accurate, this is an effect that is not explained in the reference. The Examiner's conclusion regarding what may happen in the Haynes 046 device does not provide the proper analysis for a determination of equivalence.

Guidance for determination of whether the prior art element performs the identical function as the claimed element is set forth in Section 2184 of the MPEP. One test is a comparison of whether the prior art performs the identical function as in the claimed element in substantially the same way, to produce the substantially same result. The Examiner argues the result of pump stoppage is soil being retained, but even if this is true in terms of a result, the way in which the result is achieved is very different between the present invention and the Haynes 046 device. The pump in the Haynes 046 device resides within the device, and the pump acts to evacuate soil and water in order that the device may be embedded. In order for the pump to be able to displace soil, the soil must be continually moved through and out of the device. There is no teaching in Haynes 046 that soil should remain stationary in the device, and soil remaining in the device in the upper cavity 61 above the bulkhead 20 serves only to block the operation of the pump and to prevent the removal of incoming soil from the lower portion. In other words, soil that is retained above the bulkhead must be evacuated in the next pump cycle, or the device is clogged and cannot properly function. Thus, the basic construction of the Haynes 046 reference clearly teaches that any soil retained stationary within the device is

not a desirable result. The function of the present invention is to permanently retain an amount of soil to enhance the device's ability to be held in the seabed floor as an anchor. The Haynes 046 device is not an anchor, and rather is a device that allows core samples to be taken by the downward movement of the device into the seabed floor. Haynes 046 does disclose at Column 4, lines 17-25 that the weight of the soil above the pump unit 12 is effective in acting as part of the external pressure head. However, the Haynes 046 device cannot continue in its downward travel when the pump stops since soil below the device will not be evacuated. Pump stoppage in Haynes 046 defeats the purpose of the Haynes 046 invention, and Haynes 046 only discloses two modes of operation, downward or upward travel enabled by continual operation of the pump. The relevant definition of the word "retain" in the Encarta® online dictionary is: *to keep or hold something in a place or position; water retained by a dam.* In summary, the function of the Haynes 046 elements in handling soil are for displacing and removing soil, not for holding the soil in place or position like a dam. The means plus function limitation of the present invention should be interpreted to require that the soil be truly retained, i.e., be held in position.

With respect to dependent Claim 5, the Haynes 046 reference does not disclose at least one conical hopper having an apex oriented to penetrate the soil during embedment. Again, the bulkhead in Haynes 046 and the surrounding structure do not remotely resemble a conical hopper having an apex oriented to penetrate the soil during embedment. Even if the bulkhead 20 in Haynes 046 could be construed as a hopper, there is no apex.

With respect to the method of Claim 8, Appellant continues to disagree with the Examiner that Haynes 046 discloses a pump connected to the fluid connection to cause fluid to be withdrawn away from an upper part of the interior volume during embedment. In the Examiner's Answer, the Examiner provided a figure illustrating where the upper part or portion of the Haynes 046 device is located. At that location in Figure 2 of the Haynes 046 reference, this upper portion/part defines the interior area of the Haynes 046 device above the bulkhead 20. The pump in Haynes 046 does not cause fluid to be withdrawn away from the upper part of the interior volume, but actually pushes or forces the fluid into the upper part because the pump draws in fluid below the upper part in

cavity 42. The only function of withdrawing soil and water in Haynes 046 is what occurs below the upper portion during upstroke of the pump. Therefore, Haynes 046 does not teach the method of Claim 8 as confirmed by the Examiner's explanation of the upper and lower portions of the reference.

Based upon the foregoing, Appellant respectfully requests that the Examiner's rejections be withdrawn, and each of the claims of this Appeal be allowed.

Respectfully submitted,

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